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CLERK U.S. BANKRUPTCY COURT  
Central District of California  
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7 NOT FOR PUBLICATION CHANGES MADE BY COURT

8 UNITED STATES BANKRUPTCY COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 LOS ANGELES DIVISION

11 In re: ) No. 2:14-bk-25970-RK  
12 FRANCISCO G. ZORRILLA and ) Chapter 7  
ROSA I. ZORILLA, )  
13 )  
14 Debtors. ) ORDER ON TRUSTEE'S  
15 ) EMERGENCY MOTION FOR TURNOVER  
16 ) OF PROPERTY [15311 Lanning  
Drive, Whittier, California  
17 ) 90605], OR IN THE  
18 ) ALTERNATIVE, FOR IMMEDIATE  
19 ) ACCESS TO THE PROPERTY  
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The court has reviewed and considered the motion of Rosendo Gonzalez, the Chapter 7 trustee in this bankruptcy case (the "Trustee"), seeking, on an emergency basis pursuant to Local Bankruptcy Rule 9075-1 and Section 542 of the Bankruptcy Code, turnover of the real property commonly described as 13511 Lanning Drive, Whittier, California 90605 (the "Lanning Property"), or in the alternative, immediate access to the Lanning Property (the "Motion") [OFFICIAL DOCKET NO. 35].

Having reviewed and considered the Motion, the court denies the Motion without prejudice for the following reasons:

- 1       1. Although Trustee's Motion is styled as an "Emergency  
2           Motion," Trustee does not follow the procedures for  
3           emergency motions as set forth in Local Bankruptcy Rule  
4           9075-1(a)(1) in that he did not request a hearing, nor did  
5           Trustee telephone chambers to request a hearing in  
6           accordance with Local Bankruptcy Rule 9075-1(a)(2).
- 7       2. Emergency motions contemplated under Local Bankruptcy Rule  
8           9075-1(a)(1) are those motions requiring an order on less  
9           than 48 hours notice. The circumstances described in the  
10          "Trustee's Emergency Motion" are not ones which require an  
11          order on less than 48 hours notice. Indeed, Trustee in the  
12          Motion only requests that an order be entered requiring  
13          access to the subject property or turnover within 3 business  
14          days of entry of the order granting such access or turnover.  
15          Motion at 9.
- 16       3. Trustee's Motion appears to request a ruling without a  
17           hearing after notice pursuant to Local Bankruptcy Rule 9013-  
18           1(p), even though a motion for turnover may not be brought  
19           under Local Bankruptcy Rule 9013-1(p).
- 20       4. The applicable local rule for emergency consideration of  
21           motions is Local Bankruptcy Rule 9075-1 which provides for  
22           hearings on emergency motions or motions on shortened time  
23           with notice; the local rule does provide for *ex parte*  
24           consideration of a motion for turnover as is requested here.
- 25       5. Alternatively, aside from Local Bankruptcy Rule 9013-1(d)  
26           governing motions heard on regular 21 days notice, another  
27           applicable local rule for a motion for turnover is Local  
28           Bankruptcy Rule 9013-1(o)(1), which requires notice of an  
            opportunity for a hearing, which Trustee did not provide to

1 Debtors. Given that Trustee did not telephone chambers to  
2 request an emergency hearing, nor does Trustee in his Motion  
3 provide any discussion of an "emergency," the court  
4 construes Trustee's Motion as a motion under Local  
5 Bankruptcy Rule 9013-1(o), which the court observes is cited  
6 in the Motion's caption. However, Trustee did not properly  
7 notice the Motion in accordance with Local Bankruptcy Rule  
8 9013-1(o) (1).

9 6. If Trustee believes that this matter is urgent and should be  
10 heard on shortened notice, he could apply for a hearing on  
11 shortened notice for a non-emergency motion and follow the  
12 procedures set forth in Local Bankruptcy Rule 9075-1(b),  
13 including the filing of an application for hearing on  
14 shortened notice setting forth the reasons for shortened  
15 notice and supported by a declaration or declarations under  
16 penalty of perjury setting forth the facts that justify a  
17 hearing on shortened notice and demonstrate a prima facie  
18 basis for the relief requested.

19 IT IS SO ORDERED.  
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23 Date: November 21, 2016  
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24 Robert Kwan  
25 United States Bankruptcy Judge  
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